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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,090	06/26/2003	Wayne Lawrence Felts	STL11280	4245
7590	12/19/2006			
David K. Lucente Seagate Technology LLC Intellectual Property - COL2LGL 389 Disc Drive Longmont, CO 80503			EXAMINER TRUJILLO, JAMES K	
			ART UNIT 2116	PAPER NUMBER
			MAIL DATE 12/19/2006	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/606,090

Applicant(s)

FELTS, WAYNE LAWRENCE

Examiner

James K. Trujillo

Art Unit

2116

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.



James K. Trujillo
Primary Examiner
Technology Center 2100

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 11/27/06 have been fully considered but they are not persuasive.

Applicant argues in substance that Sato, at paragraph [0006] lines 1-7 intermediates exchange of control data on the operation of a hardware section between a process and the hardware section and thus is not in an open control mode. The examiner respectfully disagrees. The portion of Sato to which the Applicant refers is in the background of Sato and is thus prior art. The prior art does not have any handover of code from a first code to a second code and thus this portion of Sato cannot be used with his preferred embodiments. Applicant argues in substance that Sato provides continuous exchange of control data and no release of processor control takes place. The examiner disagrees. Applicant is directed to paragraph [0086] and figure 5, where Sato describes an affirmative judgment of Step 302 that the spindle motor has completed acceleration and proceeds to Step 303 because the speed is stable. Therefore, Sato teaches that there is no more control taking place from the processor. Further, Sato hands over control from first code to a second code (common boot to a main program) and thus control cannot be maintained by the first code and thus also cannot be continuous.

Applicant argues in substance that there is nothing in Sato that teaches or suggests that the disk controlling section stops sending speed control data to the processor once step and rather that the skilled artisan would view this data as being continuously provided by the section 411 to the processor for use in the processor's top level control for the entire storage system. The examiner disagrees. Applicant is directed to paragraph [0086], which discloses that the spindle motor now steadily drives at the common rotation speed. Thus, one of ordinary skill in the art would understand that no further control is required and further that step 302 has been completed no longer required.

Applicant argues in substance that it is implausible to assert that processor 412 would be oblivious to a failure of motor 404 during the boot process, and yet that this is the position that the examiner has taken in suggestion that the processor control is suspended during the interval. The examiner takes the position that such a situation is not in the scope of this invention of Sato and cannot be determined by Sato. However, there is no recitation in the claims of a failure of a motor or that control may be only reside in the processor. As best understood, the motor is instructed/controlled to accelerate to a particular speed. Once at that speed it may run steadily at that particular speed.

Applicant further argues in substance that it is implausible to assert that the disk controlling section 411 of Sato, after having stopped sending speed control data to the processor during step 303 through 307 of Fig. 5 suddenly begins sending it again to the processor to verify the speed of the motor to increase it to the final operational speed. The examiner does not agree with the position of the Applicant and believes that the Applicant has misinterpreted Sato. In Sato, a computer system is started using a first code (common boot). Sato uses the first code to spin the disk to a first predetermined speed. After reaching the predetermined speed Sato teaches that the second code (main program) is downloaded at the predetermined speed. After loading the main program the disk is then accelerated to a faster speed of operation that corresponds to the second code. Therefore when the first predetermined speed is reached control is not required because the motor will steadily maintain the speed. During the downloading of the main program there cannot be any control from the processor because the code it uses is being replaced (a handover from the first code to the second code).

Applicant argues in substance that the examiner has not shown, and cannot show a teaching or suggestion in Sato where operational control is temporarily suspended. The examiner respectfully disagrees. As set forth hereinabove for the same reasons the examiner has shown that operation control is temporarily suspended, see paragraph [0086] of Sato..